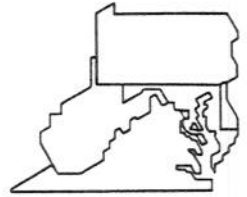




U.S. DEPARTMENT OF EDUCATION

3535 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19104



REGION III

STUDENT FINANCIAL
ASSISTANCE PROGRAMS
ROOM #16200

September 26, 1997

Dr. Paul E. Torgersen
President
Virginia Polytechnic Institute and State University
Burruss Hall
Blacksburg, VA 24061

Certified Mail Return
Receipt Requested
Z 343 346 367

AMENDED
Final Program Review
Determination Letter
PRCN: 199640313824

Dear Dr. Torgersen:

As you are aware the U.S. Department of Education (the Department) has been reviewing Virginia Polytechnic Institute and State University's (VA Tech) policies and procedures related to the Student Right to Know and Campus Security Act. The Department has been reviewing institutional policies and procedures for compliance with 34 CFR 668.47. On September 20, 1996, the Department contacted VA Tech via letter, requesting copies of the institution's September 1, 1995 and September 1, 1996 Campus Security Reports, as well as some general information regarding the institution's methods of compiling the data for those reports. VA Tech responded in a letter dated October 10, 1996. The Department sent a follow up letter to the institution on November 26, 1996, requesting some more specific and detailed information. The institution responded to this inquiry in correspondence dated December 20, 1996. The Department has completed its review of both the October 10, 1996 and December 20, 1996 submissions. The purpose of this letter is to inform the institution of the Department's findings with regard to this matter.

This letter cites instances of non-compliance with 34 CFR 668.47. Findings of non-compliance are detailed below and referenced to applicable statutes and regulations. Although the review was thorough, it cannot be assumed to be all inclusive. The absence of statements in this document concerning the institution's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve Virginia Polytechnic Institute and State University of its obligation to comply with all statutory and regulatory provisions governing the Title IV programs.

Findings of non-compliance are also followed by corrective actions to be taken by the institution. VA Tech must take the required corrective actions. In addition, VA Tech must engage the services of an independent firm with the requisite expertise to conduct reviews of the Title IV, HEA programs, and specifically the Student Right to Know and Campus Security Act of 1990, to review the corrective actions taken, and provide this office with a certification that the required actions have been taken in accordance with 34 CFR 668.47. The independent firm must provide this certification to this office within sixty (60) days of the institution's receipt of this letter.

FINDING 1: CRIME STATISTICS NOT ACCURATELY COMPILED - ANNUAL CAMPUS SECURITY REPORTS

The crime statistics cited in the institution's annual Campus Security Reports are not based on calendar years. The institution's December 20, 1996 submission states that "Our report covers a full year in time span (September 1 through August 31)...". However, regulations require that an institution's annual security report must contain statistics covering the three **calendar years** preceding the year in which the report is disclosed. 34 CFR 668.47 (d) (1) (iii).

REFERENCE:

34 CFR 668.14 (c) (2), General Provisions Regulations, April 29, 1994.
34 CFR 668.16, General Provisions Regulations, April 29, 1994.
34 CFR 668.47 (d) (1) (iii), General Provisions Regulations, April 29, 1994.
Sect. 485 (f) of the Higher Education Amendments, as amended

REQUIREMENT:

The institution must ensure that its September 1, 1997 Campus Security Report, as well as all subsequent reports contain the required crime statistics, covering the three calendar years preceding the year in which the report is disclosed. VA Tech must engage the services of an independent firm with the requisite expertise to conduct reviews of the Title IV, HEA programs, and specifically the Student Right to Know and Campus Security Act of 1990, to review the corrective actions taken, and provide this office with a certification that the required actions have been taken in accordance with 34 CFR 668.47. The independent firm must provide this certification to this office within sixty (60) days of the institution's receipt of this letter.

FINDING 2: CRIME STATISTICS NOT ACCURATELY DISCLOSED - ANNUAL CAMPUS SECURITY REPORTS

VA Tech failed to accurately report crime statistics. In August 1996, the Department received a student complaint stating that a September 1994 incident involving the student was not included in the institution's 1994 crime statistics. The Department inquired about this instance in its November 26, 1996 letter and VA Tech's December 20, 1996

response indicated "The incident was never reported to campus police (or anyone else) in 1994. We cannot go back and falsify 1994 figures of reported incidents. However, the incident was reported in April of 1995 to the Women's Center. The incident is included in the figures as reported to other university officials."

The campus security regulations require that schools publish an annual security report that contains, among other items, "statistics concerning the **occurrence** on campus of the following criminal offenses reported to local police agencies and to any official of the institution who has significant responsibilities for student and campus activities."

34 CFR 668.47 (a)(6)(i). Regulations further require that Campus Security Reports contain statistics covering the three calendar years preceding the year in which the report is disclosed. 34 CFR 668.47 (d)(1)(iii). Therefore, the September 1, 1995 report would have been the first report issued which would contain crime statistics from 1994. The student incident in question **occurred** in 1994 and was, according to the institution's response, reported to a school official in April of 1995. Based on this sequence of events, the Department must conclude that the institution had ample time to include an incident reported in April of 1995 in its September 1, 1995 report.

REFERENCE:

34 CFR 668.14 (c) (2), General Provisions Regulations, April 29, 1994.

34 CFR 668.16, General Provisions Regulations, April 29, 1994.

34 CFR 668.47, General Provisions Regulations, April 29, 1994.
Sect. 485 (f) of the Higher Education Amendments, as amended

REQUIREMENT:

The institution must review the requirements of 34 CFR 668.47 and develop a system for collecting information from all pertinent sources about all occurrences (reports and arrests) of those crimes covered in 34 CFR 668.47 (a)(6) and (a)(8). In addition, the institution must include the student incident in question with the 1994 crime statistics, beginning with its September 1, 1997 Campus Security Report. VA Tech must engage the services of an independent firm with the requisite expertise to conduct reviews of the Title IV, HEA programs, and specifically the Student Right to Know and Campus Security Act of 1990, to review the corrective actions taken, and provide this office with a certification that the required actions have been taken in accordance with 34 CFR 668.47. The independent firm must provide this certification to this office within sixty (60) days of the institution's receipt of this letter.

FINDING 3: STATEMENTS OF POLICY OMITTED/INCOMPLETE

A review of VA Tech's September 1, 1995 and September 1, 1996 Campus Security Reports revealed several instances where statements of policy were omitted or were incomplete. In its November 26, 1996 letter the Department asked VA Tech to provide the exact location, of the following required elements, in its September 1, 1995 and

September 1, 1996 Campus Security Reports. The institution's December 20, 1996 response provided the names of the University publications where each of the following elements could be located. However, these statements were not included in the Campus Security Reports themselves. Regulations require that institutions publish and distribute an annual security report that contains, at a minimum, specific elements, some of which are detailed below. 34 CFR 668.47 (a).

- a) The procedures students should follow if a sex offense occurs, including procedures concerning who should be contacted, the importance of preserving evidence for the proof of a criminal offense, and to whom the alleged offense should be reported. 34 CFR 668.47 (a) (12) (ii);
- b) procedures for campus disciplinary action in cases of an alleged sex offense, including a clear statement that -
 - 1) the accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and
 - 2) both the accuser and the accused shall be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense. 34 CFR 668.47 (a) (12) (vi); and
- c) sanctions the institution may impose following a final determination of an institutional disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses. 34 CFR 668.47 (a) (12) (vii).

REFERENCE:

34 CFR 668.14 (c) (2), General Provisions Regulations, April 29, 1994.
34 CFR 668.16, General Provisions Regulations, April 29, 1994.
34 CFR 668.47 (a), General Provisions Regulations, April 29, 1994.
Sect. 485 (f) of the Higher Education Amendments, as amended

REQUIREMENT:

VA Tech must review its Campus Security Reports to ensure that all policy statements required under 34 CFR 668.47 are included. The institution must modify its September 1, 1997 Campus Security Report to include all elements required by regulation. VA Tech must engage the services of an independent firm with the requisite expertise to conduct reviews of the Title IV, HEA programs, and specifically the Student Right to Know and Campus Security Act of 1990, to review the corrective actions taken, and provide this office with a certification that the required actions have been taken in accordance with 34 CFR 668.47. The independent firm must provide this certification to this office within sixty (60) days of the institution's receipt of this letter.

APPEAL PROCEDURES

This constitutes the Department's final determination with respect to its review of the VA Tech's compliance with the Student Right to Know and Campus Security Act. If you wish to appeal to the Secretary for a review of any matter in this final review determination, you must file a written request for an administrative hearing. Your request must be received by the Department no later than forty-five (45) days from the date that Virginia Polytechnic Institute and State University receives this final review determination letter. An original and three copies of the information you submit must be attached to your request. Your request for a review must be sent to:

Mr. David Morgan, Director
Administrative Action And
Appeals Division (AAAD)
P.O. Box 23800
L'Enfant Plaza Station
Washington, DC 20026

If your request is timely, the Department will schedule an administrative hearing in accordance with Section 487(b)(2) of the Higher Education Act of 1965, as amended, 20 U.S.C. 1094(b)(2). The procedures followed with respect to your appeal will be those provided in 34 CFR Part 668, Subpart H. You will be notified concerning the date of the hearing after the Department receives your request.

The regulations require that your request for review must (1) include a copy of the final review determination, (2) identify the issues and facts in the final determination that you dispute, and (3) state your position on the disputed matters with pertinent facts and reasons supporting your position [45 CFR 668.113 (c)]. The program review control number (PRCN) must also accompany your request for review.

The regulations also require that you submit with your request for review any institutional work papers, records, or other materials that you may later wish to offer in this proceeding to support your position [34 CFR 668.113 (b)].

Your continued cooperation throughout the review process is appreciated. If you have any questions, please call Ms. Nancy DellaVecchia at (215) 596 - 0247.

Sincerely,



John S. Loreng
Team Leader
Northeast Quadrant - Philadelphia Team